



## No.413

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### 立方要闻周报

## Weekly News By Lifang & Partners

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## 立方竞争法周报 Weekly Competition Law News

### 国家市场监督管理总局举办第四期海外反垄断合规讲堂

2025年11月18日，国家市场监督管理总局（“市场监管总局”）在京举办第四期海外反垄断合规讲堂，聚焦航空企业国际化发展中的合规挑战进行授课，助力提升海外反垄断合规能力，促进航空产业高质量国际化发展。本期讲堂由中国航空运输协会承办，数十家航空制造及运输企业代表参加。相关专家系统解读欧盟、美国等航空企业重点布局区域的反垄断法律法规，结合航空领域典型反垄断案例，深入剖析经营者集中申报、垄断协议防范、市场支配地位合规等方面的风险识别与防控要点，为企业提供全链条合规指引。（[查看更多](#)）

### SAMR Holds the Fourth Overseas Antitrust Compliance Lecture

On November 18, 2025, the State Administration for Market Regulation (“the SAMR”) held in Beijing the fourth overseas antitrust compliance lecture, focusing on compliance challenges arising from the internationalized development of aviation enterprises. The lecture aimed to enhance overseas antitrust compliance capabilities and promote the high-quality global development of the aviation industry. Organized by the China Air Transport Association, the event was attended by representatives of dozens of aviation manufacturing and transportation companies. Relevant experts provided a systematic analysis of antitrust laws and regulations in key jurisdictions where aviation enterprises are active, including the European Union and the United States, and, drawing on typical antitrust cases from the aviation sector, offered an in-depth examination of key issues in merger notifications, prevention of monopolistic agreements, and compliance work relating to the market dominant position. The lecture provided enterprises with end-to-end compliance guidance. ([More](#))

### 上海市市场监督管理局印发《上海市市场监管领域殡葬行业经营者合规指引》

2025年11月17日，上海市市场监督管理局（“上海市监局”）发布《上海市市场监管领域殡葬行业经营者合规指引》（“《指引》”），以促进殡葬行业经营者合规经营，更好保障群众合法权益。《指引》共25条，适用于销售殡葬用品、提供殡葬服务或者提供殡葬代理服务的经营者。其中第十五条为反垄断，明确要求殡葬行业经营者在经营活动中应做好反垄断合规管理，不得有固定价格、分割市场、联合抵制交易等横向垄断协议行为，不得为达成垄断协议提供实质性帮助等，具有市场支配地位的殡葬行业经营者不得以不公平高价销售相关用品或服务，不得无正当理由拒绝交易、限定交易、搭售、交易时附加不合理交易条件等。（[查看更多](#)）

### Shanghai AMR Issues the *Compliance Guidelines for Funeral Industry Operators in the Field of Market Regulation*

On November 17, 2025, the Shanghai Administration for Market Regulation (“the Shanghai AMR”) issued the *Compliance Guidelines for Funeral Industry Operators in the Field of Market Regulation* (“the *Guidelines*”) to promote compliant business practices in the funeral industry and better safeguard the lawful rights and interests of the public. *The Guidelines* consists of 25 articles and applies to opera-

tors engaged in the sale of funeral supplies, the provision of funeral services, or funeral agency services. Among them, Article 15 addresses antitrust issues: it expressly requires funeral industry operators to ensure proper antitrust compliance in their business activities, and stipulates the following: funeral industry operators must not engage in horizontal monopolistic agreements, including price-fixing, market allocation, or joint boycotts, nor provide substantial assistance in reaching such agreements etc.; funeral industry operators with a dominant market position must not sell relevant products or services at unfairly high prices, nor may they refuse to deal, restrict transactions, engage in tying, or impose unreasonable terms as conditions for transactions without proper justifications. ([More](#))

## 韩国公平竞争委员会对Arm公司许可行为启动反垄断调查

2025年11月19日，据媒体报道，韩国公平竞争委员会（“KFTC”）已经对Arm控股公司在首尔的业务启动反垄断调查，以评估Arm的许可行为是否可能违法当地的反垄断法规。据媒体报道，KFTC在收到高通的投诉后对Arm的首尔办公室进行检查；高通指控尽管Arm长期以来一直被描述为运营一个开放网络，但Arm存在限制高通获取技术、破坏竞争的行为。高通通过许可协议使用Arm的架构开发芯片，并将芯片供应给包括三星在内的制造商。 ([查看更多](#))

## KFTC Launches Antitrust Investigation into Arm's Licensing Practices

On November 19, 2025, according to media reports, the South Korea Fair Trade Commission (“the KFTC”) has launched an investigation into Arm Holdings’ operation in Seoul, in order to examine whether Arm’s licensing conduct may violate local antitrust rules. According to the media report, the KFTC visited Arm’s Seoul office after receiving a complaint from Qualcomm; Qualcomm has alleged that Arm has been limiting access to its technology and undermining competition despite operating what had long been described as an open network. Qualcomm develops its chips using Arm’s architecture under a licensing arrangement and distributes them to manufacturers, including Samsung Electronics. ([More](#))

## 美国法院裁定Meta未违反美国反垄断法

2025年11月18日，美国联邦地区法院James Boasberg法官作出了一项裁定，认定Meta对Instagram和WhatsApp的收购行为未违反美国反垄断法。在裁定中，法官认定联邦贸易委员会（“FTC”）未能证明两项收购使Meta得以非法垄断社交网络市场，认为FTC既未充分界定相关市场，也未能证明Meta维持垄断力量。FTC在2020年针对Meta的两起收购行为提起诉讼，指控Meta（彼时Facebook）的收购目的是避免与Instagram和WhatsApp竞争，从而维系其在亲友社交领域的垄断地位。本案在今年4月开始了为期七周的庭审，法官在庭审期间听取了多位Meta高管证词，包括创始人兼首席执行官马克·扎克伯格以及前首席运营官谢丽尔·桑德伯格；TikTok和Reddit等平台的高管也出庭作证、以说明可供消费者选择的多种替代产品。 ([查看更多](#))

## US Court Rules that Meta Has not Violated US Antitrust Laws

On November 18, 2025, US District Judge James Boasberg issued a ruling, finding that Meta’s acquisition of Instagram and WhatsApp did not violate US antitrust laws. In the ruling, the judge found that

the Federal Trade Commission (“the FTC”) failed to demonstrate that the two acquisitions enabled Meta to unlawfully monopolize the social-networking market, holding that the FTC had not sufficiently defined the market or show that Meta maintained monopoly power. The FTC first brought the case against Meta’s two acquisitions in 2020, accusing that Meta (then Facebook) acquired Instagram and WhatsApp to avoid competing with them, thereby allegedly preserving its hold over social networking among friends and family. A seven-week trial of this case began in April, and the judge heard testimony from senior Meta leaders such as founder and CEO Mark Zuckerberg and former chief operating officer Sheryl Sandberg; executives from TikTok, Reddit were also called to provide testimony to illustrate the range of alternatives available to consumers. ([More](#))

### 法国竞争管理局对科西嘉岛部分企业达成反竞争协议行为罚款1.8749亿欧元

2025年11月17日，法国竞争管理局宣布对道达尔能源、Rubis集团旗下两公司和EG零售公司共处处以1.875亿欧元反垄断罚款，理由是上述公司在科西嘉岛达成反竞争协议。具体而言，上述被罚主体是科西嘉石油仓储公司（“DPLC”）的股东，在科西嘉岛从事公路燃料的供应、仓储和分销业务；它们实施了一项反竞争的协议，即通过书面协议方式将科西嘉燃料仓库的通行权保留，仅供其自身使用。DPLC股东从事的以上反竞争行为可能将非股东竞争对手排挤出市场，导致这些竞争对手被迫接受特定燃料采购条件、因层层加价而承担更高成本；法国竞争管理局认为这种情形不但削弱了竞争对手们的竞争力，更最终损害了消费者的利益，导致加油站零售价格上涨，因此作出反垄断罚款。法国竞争管理局在2021年12月15日对科西嘉岛公路燃料分销行业的经营行为启动调查；在2022年9月收到Ferrandi的投诉后，法国竞争管理局将原有调查与该投诉合并为同一案件。 ([查看更多](#))

### French Competition Authority Imposes a fine of €187.5 million on Certain Companies Implementing the Anticompetitive Agreement in Corsica

On November 17, 2025, the French Competition Authority announced that it had imposed an antitrust fine of €187.5 million on TotalEnergies, two companies in the Rubis group and EG Retail, on grounds that the above-mentioned companies implemented an anticompetitive agreement in Corsica. Specifically, the above sanctioned entities are shareholders of Dépôts Pétroliers de la Corse (“the DPLC”) and active in the supply, storage and distribution of road fuels in Corsica; they implemented an anticompetitive agreement consisting of a written agreement to reserve a right of passage within Corsica fuel depots for their sole benefit. Through such conduct, the DPLC shareholders engaged in an anticompetitive practice that was likely to foreclose their non-shareholder competitors, rendering these competitors being forced to purchase their fuel at conditions imposed by their own rivals, and also incurring higher costs due to the accumulation of markups. The French Competition Authority held that such situation harmed the competitiveness of rivals and was ultimately detrimental to consumers, leading to higher fuel prices at the pump, therefore issued the antitrust fine. The French Competition Authority launched an investigation into practices in the road fuel distribution sector in Corsica; after receiving a complaint from Ferrandi in September 2022, the French Competition Authority then combined its own investigation and the complaint into a single case. ([More](#))

## 网络安全与数据合规 Cybersecurity and Data Protection

### 国家网信办、公安部发布《大型网络平台个人信息保护规定（征求意见稿）》

2025年11月22日，国家网信办和公安部发布了《大型网络平台个人信息保护规定（征求意见稿）》（以下简称《规定》），旨在帮助具有海量用户和对全局有系统性影响的大型网络平台，进一步提升个人信息保护能力。《规定》明确，对大型网络平台的认定，主要考虑以下因素：（1）注册用户5000万以上或者月活跃用户1000万以上；（2）提供重要网络服务或者经营范围涵盖多个类型业务；掌握处理的数据一旦被泄露、篡改、损毁，对国家安全、经济运行、国计民生等具有重要影响；国家网信部门、国务院公安部门规定的其他情形。《规定》强调，大型网络平台服务提供者应当履行按照法律法规有关规定指定个人信息保护负责人、明确个人信息保护工作机构、将在中华人民共和国境内运营中收集和产生的个人信息存储在境内等义务。《规定》指出，当大型网络平台出现重大安全风险、严重数据事故或执法发现系统性缺陷等极端情形，且平台自身能力不足以保障个人信息安全时，监管机关有权要求平台将个人信息转移至符合条件的第三方数据中心进行存储和管理。（[查看更多](#)）

### **CAC and MPS Issue Measures for the Protection of Personal Information of Large-Scale Online Platforms (Draft for Comment)**

On November 22, 2025, the Cyberspace Administration of China (CAC) and the Ministry of Public Security (MPS) jointly issued the *Measures for the Protection of Personal Information of Large-Scale Online Platforms (Draft for Comment)* (Measures), aiming to help large-scale online platforms with massive users and systemic impact on the overall situation further enhance their personal information protection capabilities. The Measures clarify that the identification of large-scale online platforms mainly takes into account the following factors: (1) Having more than 50 million registered users or more than 10 million monthly active users. (2) Providing important online services or covering multiple types of businesses in its business scope. (3) If the data held and processed is leaked, tampered with, or damaged, it will have an important impact on national security, economic operation, national economy and people's livelihood, etc. (4) Other circumstances specified by the national cyberspace administration department and the public security department of the State Council. The Measures emphasize that providers of large-scale online platform services shall fulfill the following obligations in accordance with the relevant provisions of laws and regulations: designating a Personal Information Protection Officer (PIPO), clarifying a personal information protection department, and storing personal information collected and generated during operations within the territory of the People's Republic of China. The Measures point out that in extreme circumstances such as major security risks, serious data incidents, or systemic flaws identified by law enforcement on large-scale online platforms, and when the platform's own capabilities are insufficient to ensure the security of personal information, the regulatory authorities have the right to require the platform to transfer the personal information to a qualified third-party data center for storage and management. ([More](#))

### 国家网信办发布《网络安全标识管理办法（征求意见稿）》

2025年11月21日，国家网信办发布了《网络安全标识管理办法（征求意见稿）》（以下简称《办

法》），旨在提升产品的网络安全能力，加强消费者权益保护，维护网络安全和公共利益。《办法》所称网络安全标识，是指能够反映产品本身网络安全能力水平的信息标识。《办法》明确，网络安全标识对应的网络安全能力由低到高依次为基础级、增强级、领先级，相应的标识等级分别用一星、二星、三星表示。《办法》规定，需要标注网络安全标识的产品，产品生产者应当依据实施规则相关要求开展网络安全能力检测，确定网络安全能力等级，并取得检测报告。根据《实施网络安全标识的产品目录（第一批）（征求意见稿）》，消费类网联摄像头应实施网络安全标识。（[查看更多](#)）

### **CAC Issues Measures for the Administration of Network Security Marks (Draft for Comment)**

On November 21, 2025, the CAC issued the *Measures for the Administration of Network Security Marks (Draft for Comment)* (Measures), aiming to enhance the cybersecurity capabilities of products, strengthen the protection of consumers' rights and interests, and safeguard cybersecurity and public interests. The network security mark as referred to in the Measures means an information mark that can reflect the level of cybersecurity capabilities of the product itself. The Measures clarify that the cybersecurity capabilities corresponding to network security marks are, in ascending order from low to high, Basic Level, Enhanced Level, and Leading Level, with the corresponding mark levels indicated by One-Star, Two-Star, and Three-Star respectively. The Measures stipulate that for products requiring the labeling of network security marks, product producers shall conduct cybersecurity capability testing in accordance with the relevant requirements of the implementation rules, determine the cybersecurity capability level, and obtain a test report. According to the *Catalogue of Products Subject to Network Security Marking (Batch 1) (Draft for Comment)*, consumer-oriented connected cameras shall implement network security marking. ([More](#))

### **国家网络与信息安全信息通报中心通报40款违法违规收集使用个人信息的App**

2025年11月17日，国家网络与信息安全信息通报中心通报了40款违法违规收集使用个人信息的App，所涉问题包括但不限于：（1）未逐一列出收集、使用个人信息的目的、方式、范围；（2）实际收集的个人信息超出用户授权范围；（3）实际收集的个人信息超出相关功能的必要范围；（4）未向用户提供个人信息相关投诉渠道或功能；（5）未向用户提供更正或补充其个人信息的具体途径；（6）未向用户提供删除其个人信息的具体途径。（[查看更多](#)）

### **National Cyber and Information Security Information Notification Center Notifies 40 Apps for Illegally or Improperly Collecting and Using Personal Information**

On November 17, 2025, the National Cyber and Information Security Information Notification Center notified 40 Apps that illegally or improperly collect and use personal information. The involved issues include but are not limited to: (1) Failed to list one by one the purposes, methods, and scope of collecting and using personal information. (2) The personal information actually collected exceeds the scope authorized by users. (3) The personal information actually collected exceeds the necessary scope for relevant functions. (4) Failed to provide users with complaint channels or functions related to personal information. (5) Failed to provide users with specific channels to correct or supplement their personal information. (6) Failed to provide users with specific channels to delete their personal information. ([More](#))

## 北京三部门联合约谈18款小众通联App运营主体

2025年11月21日，北京市网信办、市公安局、市通管局依法联合约谈18款小众通联App运营主体，通报其存在的涉诈风险，责令限期整改，切实履行主体责任。依据《反电信网络诈骗法》《网络安全法》等法律法规，三部门提出明确管理要求：（1）全面落实实名制。在与用户签订协议或确认提供服务时，依法要求用户提供真实身份信息，用户不提供真实身份信息的，不得提供服务。（2）完善监测识别机制。对利用其服务从事涉诈支持、帮助活动进行监测识别和处置，对监测识别的涉诈异常账号立即重新核验，并根据风险等级采取限制功能、暂停服务等处置措施。（3）健全内部管理制度。完善反诈内部防控机制和安全责任制度，防范被不法分子利用。积极配合监管执法工作，为公安机关办案提供技术支持和协助。（4）加强反诈宣传提示。在App注册、使用环节的显著位置，通过公告栏等方式加强反诈宣传，提高用户反诈意识。同时，完善用户投诉通道，及时受理处置用户举报。（[查看更多](#)）

## Beijing's Three Departments Jointly Summoned and Interviewed Operators of 18 Niche Communication Apps

On November 21, 2025, the Cyberspace Administration of Beijing, Beijing Public Security Bureau, and Beijing Communications Administration jointly summoned and interviewed the operators of 18 niche communication Apps in accordance with the law, notified them of the existing fraud-related risks, ordered them to rectify within a specified time limit, and earnestly fulfill their primary responsibilities. Based on the *Anti-Telecommunication and Cyber Fraud Law, Cybersecurity Law* and other laws and regulations, the three departments put forward clear management requirements: (1) Fully implement the real-name system. When signing agreements with users or confirming service provision, legally require users to provide true identity information; if users fail to provide true identity information, no services shall be provided. (2) Improve monitoring and identification mechanisms. Monitor, identify and dispose of fraud-related supporting and assisting activities conducted through their services; immediately re-verify the identified abnormal fraud-related accounts, and take disposal measures such as restricting functions and suspending services according to risk levels. (3) Improve internal management systems. Refine internal anti-fraud prevention and control mechanisms and safety responsibility systems to prevent exploitation by criminals. Actively cooperate with regulatory and law enforcement work, and provide technical support and assistance for public security organs in handling cases. (4) Strengthen anti-fraud publicity and reminders. At prominent positions in the App registration and usage links, strengthen anti-fraud publicity through notice boards and other means to enhance users' anti-fraud awareness. Meanwhile, improve user complaint channels and timely accept and handle user reports. ([More](#))

## 上海市网信办发布生成式人工智能服务登记信息公告

2025年11月19日，上海市网信办发布了生成式人工智能服务登记信息公告，其按照《生成式人工智能服务管理暂行办法》要求，有序开展上海市生成式人工智能服务备案工作。截至11月19日，上海市新增3款已完成登记的生成式人工智能服务，累计已完成130款生成式人工智能服务登记。已上线的生成式人工智能应用或功能，应在显著位置或产品详情页面标明所取得的上线编号。（[查看更多](#)）

## Cyberspace Administration of Shanghai Issues Announcement on Registration Information of Generative AI Services

On November 19, 2025, the Cyberspace Administration of Shanghai issued an Announcement on Registration Information of Generative AI Services. In accordance with the requirements of the *Interim Measures for the Administration of Generative Artificial Intelligence Services*, it has steadily carried out the filing work for generative AI services in Shanghai. As of November 19, 3 additional generative AI services in Shanghai have completed registration, bringing the total number of registered generative AI services to 130. For launched generative AI applications or functions, the obtained launch registration number shall be indicated at prominent positions or on product detail pages. ([More](#))

### 欧盟：欧盟委员会在数字综合一揽子计划下修订GDPR和其他数字规则

2025年11月19日，欧盟委员会正式推出其数字综合一揽子计划。该提案是对欧盟数字监管体系的全面更新，欧盟委员会将其定位为一项提升竞争力与简化监管的举措，旨在减轻企业行政负担并增强法律确定性。数字综合一揽子计划包含《数字综合条例》（Digital Omnibus），其将修订《通用数据保护条例》（GDPR）、《电子隐私指令》、《网络安全指令 2.0》和《数据法案》等法规。主要提案包括：（1）GDPR中“个人数据”的定义将被修订，将持有该信息的主体不具备“有合理可能被使用的手段”以识别该个人的信息排除在外。（2）GDPR拟提出两项核心修订条款，旨在明确面向为开发和部署人工智能系统及模型而处理个人数据的控制者的相关规则。（3）“科学研究”的概念现拟明确界定为“任何亦能支持创新的研究，例如技术开发与示范”。（4）该提案扩大了现有透明度要求的例外情形适用范围，尤其是在为科学研究目的而进行数据处理的情形下。（5）欧盟委员会旨在通过采用更具灵活性和统一性的在线追踪规则，解决“同意疲劳”问题及Cookie横幅泛滥的现象。（6）欧盟委员会计划推出欧盟数据泄露单一入口报告门户，采用“一次提交、广泛共享”模式，以简化合规义务。（7）根据欧盟委员会的提案，欧洲数据保护委员会（EDPB）将承担制定欧盟层面统一清单的任务，明确列出需要开展和不需要开展数据保护影响评估（DPIA）的数据处理活动，以取代目前的各国清单。（[查看更多](#)）

### EU: European Commission Proposes Revisions to GDPR and Other Digital Rules Under Digital Omnibus Package

On November 19, 2025, the European Commission (Commission) officially presented its Digital Omnibus Package. The initiative represents a comprehensive update to the EU's digital regulatory landscape, which the Commission frames as a competitiveness and simplification initiative aimed at reducing administrative burdens and enhancing legal certainty for businesses. The Digital Omnibus Package includes the “Digital Omnibus” which will amend regulations such as the *General Data Protection Regulation* (GDPR), *ePrivacy Directive*, *NIS2 Directive*, and *Data Act*. Key proposals are as follows: (1) The GDPR's definition of “personal data” would be revised to exclude information where the entity holding it does not have “means reasonably likely to be used” to identify the individual. (2) Two key amendments to the GDPR are proposed to clarify rules for controllers processing personal data to develop and deploy AI systems and models. (3) The concept of “scientific research”

would now be explicitly defined as “any research which can also support innovation, such as technological development and demonstration.” (4) The proposal extends the existing exceptions to transparency requirements, in particular where processing is conducted for scientific research purposes. (5) The Commission seeks to address “consent fatigue” and the proliferation of cookie banners by adopting a more flexible and harmonized approach to online tracking rules - as reflected in the Digital Omnibus’ Recitals. (6) The Commission plans to introduce a single-entry EU portal for reporting data breaches, following a “submit once, share widely” model to streamline obligations. (7) Under the Commission’s proposals, the European Data Protection Board (EDPB) would be tasked with creating EU-wide lists of processing activities that do and do not require a Data Protection Impact Assessment (DPIA), replacing the current national lists. ([More](#))

## 爱尔兰：爱尔兰高等法院裁决暂缓禁止TikTok数据跨境传输

2025年11月17日，爱尔兰高等法院维持了一项暂缓执行裁决，该裁决要求社交媒体巨头TikTok暂停向中国传输数据。法官表示，在数据保护委员会（DPC）认可本案存在需审理的重大争议点的情况下，法院的目标是确保在上诉听证会举行前，将不公风险降至最低。他认为，若不批准暂缓执行，TikTok遭受的损失规模几乎无法量化；且即便TikTok上诉胜诉，其挽回该损失的可能性也极小，损害赔偿不能被视为充分的救济方式。他指出，尽管延迟执行DPC的裁决确实会对基本权利构成风险，且该风险在权衡中具有重要分量，但证据表明，此风险范围有限且具有暂时性。不过，他强调暂缓执行的期限应尽可能短，因此批准暂缓的前提是：只要在TikTok的能力范围内，上诉案件需在明年3月前开庭审理。法官还下令，TikTok需以清晰易懂的语言向所有用户告知DPC的裁决内容，该告知还应提及TikTok的上诉事宜及本次批准的暂缓执行决定。（[查看更多](#)）

## Ireland: High Court of Ireland Rules to Stay Ban on TikTok’s Cross-Border Data Transfers

On November 17, 2025, the High Court of Ireland upheld a stay of execution on an order requiring social media giant TikTok to suspend data transfers to China. The judge said that in circumstances where the Data Protection Commission (DPC) accepts that there is a serious issue to be tried, the objective of the court was to seek to ensure the least risk of injustice pending the hearing of this appeal. He was satisfied that the scale of the damage to TikTok, if the stay was not granted, was nearly impossible to quantify, and that there was a limited prospect of the company ever being able to recover the loss if successful in its appeal and that damages could not be regarded as an adequate remedy. Although any delay in implementing the DPC decision does carry a risk to fundamental rights, which weighs heavily in the balance, the evidence suggests that that risk is limited and will be temporary, he said. However, he said the stay should be for the shortest period possible and therefore it will be granted on the basis that the appeal will be heard by March of next year insofar as it is within TikTok’s power to do so. The judge also ordered that TikTok notify all its users of the DPC’s decision in clear and easily understood language. Any such notification should also refer to TikTok’s appeal and the stay which the judge granted. ([More](#))

## 知识产权 Intellectual Property

### 最高人民法院发布治理知识产权恶意诉讼典型案例

党的二十届四中全会强调：“要弘扬和践行社会主义核心价值观”“弘扬诚信文化”。《最高人民法院关于以高质量审判服务保障科技创新的意见》指出：“依法规制虚假诉讼、恶意诉讼、滥用诉权等阻碍创新的不法行为。”最高人民法院知识产权法庭成立以来，坚持诚信保护的司法理念，加大对知识产权恶意诉讼的治理力度，推动建设知识产权诉讼诚信文化。11月19日，最高人民法院发布《最高人民法院知识产权法庭加强诚信建设治理恶意诉讼工作纪实》和治理知识产权恶意诉讼典型案例，案例具体如下：

一、涉“行车记录仪”专利恶意诉讼案——（2023）最高法知民终869号

二、涉“靶式流量计”实用新型专利恶意诉讼案——（2022）最高法知民终1861号

三、涉“导轨”实用新型专利恶意诉讼案——（2022）最高法知民终2586号

四、涉“成品罐”实用新型专利恶意诉讼案——（2023）最高法知民终2044号

五、涉“罗汉果提取物”制备方法发明专利恶意诉讼案——（2021）最高法知民终1353号

来源：最高人民法院

### Supreme People's Court Releases Typical Cases Addressing Malicious Intellectual Property Litigation

The Fourth Plenary Session of the 20th CPC Central Committee emphasised: ‘We must promote and practise the core socialist values’ and ‘foster a culture of integrity’. The Supreme People's Court's (SPC) Opinions on Serving and Safeguarding Technological Innovation through High-Quality Adjudication stipulate: ‘Regulate unlawful acts that impede innovation, such as false litigation, malicious litigation, and abuse of litigation rights, in accordance with the law.’ Since its establishment, the Intellectual Property Tribunal of the SPC has upheld the judicial principle of integrity protection, intensified efforts to address malicious litigation in intellectual property matters, and promoted the development of a culture of integrity in IP litigation. On 19 November, the SPC released the ‘Documentary Record of the Intellectual Property Tribunal's Work on Strengthening Integrity Construction and Addressing Malicious Litigation’ alongside exemplary cases concerning the governance of malicious IP litigation. The cases are detailed as follows:

I. Malicious Litigation Case Involving a ‘Dashcam’ Patent

II. Malicious Litigation Case Involving a ‘Target Flow Meter’ Utility Model Patent

III. Malicious Litigation Case Involving a ‘Guide Rail’ Utility Model Patent

IV. Malicious litigation case concerning the utility model patent for ‘finished product containers’

V. Malicious litigation case concerning the invention patent for the preparation method of 'luo han guo extract'

Source: SPC

### 公安部刑侦局、市监总局执法稽查局参与部署知识产权代理行业专项整治行动

11月14日，知识产权代理行业专项整治行动动员部署会在京召开。国家知识产权局副局长胡文辉出席会议并作动员讲话，公安部刑侦局、国家市场监督管理总局执法稽查局负责同志出席，局专利局负责同志主持会议。

会议强调，知识产权代理是知识产权事业发展的重要支撑。要深刻认识知识产权代理行业专项整治工作的重要性和紧迫性，准确把握目标任务，严厉打击违法违规行为，集中整治不规范执业行为，强化源头治理，全力推动专项整治工作取得实效，为知识产权事业高质量发展夯实基础。

会上，有关负责同志介绍了专项整治行动部署安排和执法办案重点。国家知识产权局相关部门负责同志参加会议，各省级知识产权、公安、市场监管部门有关同志在分会场线上参会。

来源：国家知识产权局

### Ministry of Public Security's Criminal Investigation Bureau and State Administration for Market Regulation's Law Enforcement and Inspection Bureau Participate in Deploying Special Campaign to Regulate Intellectual Property Agency Sector

On 14 November, a mobilisation and deployment meeting for the special rectification campaign targeting the intellectual property agency sector was convened in Beijing. Hu Wenhui, Deputy Director of the China National Intellectual Property Administration(CNIPA), attended the meeting and delivered a mobilisation address. Responsible officials from the Criminal Investigation Bureau of the Ministry of Public Security and the Enforcement and Inspection Bureau of the State Administration for Market Regulation were present, with the meeting chaired by the responsible official of the Patent Office.

The meeting emphasised that intellectual property agency services form a vital pillar for the development of the intellectual property sector. It is imperative to fully recognise the significance and urgency of this special rectification campaign, accurately grasp its objectives and tasks, rigorously combat illegal and non-compliant activities, concentrate efforts on addressing non-standardised professional practices, strengthen source governance, and strive to achieve tangible results in the campaign. This will lay a solid foundation for the high-quality development of the intellectual property sector.

During the meeting, relevant responsible officials outlined the deployment arrangements for the special campaign and key enforcement priorities. Responsible officials from relevant departments of the CNIPA attended the meeting, while relevant personnel from provincial-level intellectual property, public security, and market regulation departments participated online via video link.

Source: CNIPA

## 国家知识产权局办公室公布关于加强商标使用管理的通知

11月21日，国家知识产权局办公室对外公布《关于加强商标使用管理的通知》（下称《通知》），旨在加强对违法违规使用商标行为的管理，引导全社会尊重和正确行使商标专用权，促进公平竞争，推动实现高质量发展。

《通知》分为工作目标、重点关注的违法违规行以及工作措施三部分。《通知》将使用带有欺骗性等禁用的未注册商标，欺骗性使用注册商标，冒充注册商标使用，应当使用而未使用注册商标，商业活动中突出使用“驰名商标”字样，违规使用集体商标、证明商标以及商标代理机构违法代理（如代理恶意商标注册申请、恶意“撤三”等）列为重点关注的违法违规行，并强调了今后要健全工作机制、开展重点摸排、及时处置线索、加强合规引导等的工作措施。

来源：国家知识产权局

## Notice on Strengthening the Management of Trademark Use Issued by the Office of the State Intellectual Property Office

On 21 November, the CNIPA issued the Notice on Strengthening the Management of Trademark Use (hereinafter referred to as the Notice), aimed at enhancing oversight of unlawful trademark usage, guiding society in respecting and properly exercising exclusive trademark rights, promoting fair competition, and advancing high-quality development.

The Notice comprises three sections: work objectives, key illegal and non-compliant practices under scrutiny, and operational measures. It identifies the following as priority areas for attention: prominent use of the term ‘well-known trademark’ in commercial activities, unauthorised use of collective or certification marks, and unlawful agency practices by trademark agencies (such as facilitating malicious trademark applications or malicious ‘cancellation upon three-year non-use’ requests). It further outlines measures including improving working mechanisms, conducting targeted investigations, promptly addressing leads, and strengthening compliance guidance.

Source: CNIPA

## 广州知产法院：明晰服装领域知识产权保护界限

广州知识产权法院审理了源麒公司与艾嘉妮公司、雅秀利公司著作权侵权及不正当竞争纠纷案。一审认定涉案十款服装构成美术作品，艾嘉妮公司与雅秀利公司侵害了版权并对其余十二款服装构成不正当竞争，判令停止侵权、消除影响并赔偿120万元。

二审法院改判，明确涉案服装不构成美术作品。法院认为服装使用的纯色、波点、豹纹等元素均为行业惯用，款式设计也属常规，整体未达到艺术创作高度，不应受《著作权法》保护。

然而，二审认定被诉行为构成不正当竞争。艾嘉妮公司和雅秀利公司长期、大规模地跟随模仿源麒公司的服装款式，并使用相同或近似的产品名称，让消费者能精准定位商品。这种不付出创造性劳动而攀附他人市场影响力的行为，挤占了源麒公司的交易机会，违反了诚信原则和商业道德，依法应承担相应责任。同时，直播间关于“想买高价去他们家”等对比性言论，构成

商业诋毁。最终，法院维持了一审的消除影响判令和120万元的赔偿数额。本案明晰了服装设计在著作权与反不正当竞争法中的保护界限，对规范行业竞争具有示范意义。

来源：广州知识产权法院

## **Guangzhou Intellectual Property Court: Clarifying the Boundaries of Intellectual Property Protection in the Garment Sector**

The Guangzhou Intellectual Property Court heard the case concerning copyright infringement and unfair competition disputes between Yuanqi Company and Aijiani Company and Yaxiuli Company. The first instance judgement determined that ten of the garments in question constituted artistic works, finding Aijiani Company and Yaxiuli Company guilty of copyright infringement and unfair competition regarding the remaining twelve garments. The court ordered cessation of infringement, elimination of adverse effects, and compensation of RMB 1.2 million.

The appellate court overturned the judgement, explicitly stating that the garments in question did not constitute artistic works. The court held that elements such as solid colours, polka dots, and leopard prints used in the garments were industry conventions, and the design styles were also conventional. The overall works did not attain the level of artistic creation and should not be protected under the Copyright Law.

However, the appellate court upheld the finding of unfair competition. Aijiani and Yaxiuli had persistently and extensively imitated Yuanqi's garment designs while employing identical or confusingly similar product names, enabling consumers to precisely identify the goods. This practice of free-riding on another's market influence without creative input deprived Yuanqi of commercial opportunities, contravening principles of good faith and commercial ethics, thereby warranting legal liability. Concurrently, comparative remarks made during live-streaming sessions, such as 'If you want to pay a premium, go to their store,' constituted commercial disparagement. Ultimately, the court upheld the first-instance judgement ordering the elimination of adverse effects and the compensation amount of RMB 1.2 million. This case clarifies the boundaries of protection for clothing designs under both copyright law and the Anti-Unfair Competition Law, setting a precedent for regulating industry competition.

Source: Guangzhou Intellectual Property Court

## **福建三明法院：电商销售附赠的礼品构成专利侵权**

福建三明法院审结一起因电商附赠礼品引发的知识产权纠纷案，明确以生产经营为目的，未经许可将侵权产品作为赠品，同样构成专利侵权，警示电商商家需确保赠品来源合法，避免因“小赠品”引发侵权纠纷。

原告李某是“牙签筒（圆形自动）”外观设计专利权人。其发现被告邓某在某电商平台销售牙签时，随机附赠的牙签筒与自己的专利产品在整体形状及视觉效果上高度近似，遂诉至法院，要求停止侵权并赔偿损失。

法院经审理认定，被诉侵权牙签筒与涉案专利产品属同类产品，且外观设计无实质性差异，构成侵权。针对核心争议，法院指出，虽然牙签筒名义上是“赠品”，但其获取以消费者支付牙

签对价为前提，成本已内化于商品定价中，本质是营利性促销手段。因此，该附赠行为应认定为销售行为的组成部分，邓某的行为构成对涉案外观设计专利权的侵害。关于赔偿数额，法院综合考虑侵权行为系附赠销售、获利程度较低等因素，酌情判决邓某赔偿李某经济损失及维权合理费用共计4000元。对于电商平台，法院认定其已及时采取必要措施，不构成共同侵权，无需承担责任。

来源：福建三明法院

## Fujian Sanming Court: Gifts Included with E-commerce Sales Constitute Patent Infringement

The Fujian Sanming Court has concluded an intellectual property dispute arising from promotional gifts offered by an e-commerce platform. The judgement clarifies that distributing infringing products as gifts for commercial purposes without authorisation constitutes patent infringement. This serves as a warning to e-commerce merchants to ensure the lawful origin of promotional items, thereby avoiding infringement disputes triggered by seemingly minor gifts.

The plaintiff, Mr Li, holds the design patent for a ‘Toothpick Holder (Round Automatic)’. Upon discovering that defendant Deng included toothpick holders with random purchases of toothpicks sold on an e-commerce platform, which bore a high degree of similarity to his patented product in overall shape and visual effect, Li brought legal action seeking cessation of infringement and compensation for damages.

The court determined that the allegedly infringing toothpick holders belonged to the same product category as the patented item and exhibited no substantial differences in design, thus constituting infringement. Addressing the core dispute, the court noted that although the toothpick holder was nominally a ‘free gift,’ its acquisition was contingent upon consumers paying for the toothpicks, with its cost internalised within the product pricing. This constituted a profit-driven promotional tactic. Consequently, the bundling practice should be deemed an integral part of the sales transaction, and Deng's actions infringed upon the design patent rights in question. Regarding the amount of compensation, the court comprehensively considered factors such as the nature of the infringement being a promotional giveaway and the relatively low profit margin. It therefore ruled that Deng should compensate Li for economic losses and reasonable expenses incurred in enforcing the rights, totalling RMB 4,000. As for the e-commerce platform, the court determined that it had taken necessary measures in a timely manner, did not constitute joint infringement, and therefore bore no liability.

Source: Fujian Sanming Court

## Apple Watch涉专利侵权：苹果被裁定赔偿Masimo约6.34亿美元

美国加州的一家联邦陪审团近期裁定Apple Watch在血氧检测相关技术上侵犯了Masimo的专利，主要涉及运动模式与心率通知功能。因此，苹果公司需向医疗监测技术企业 Masimo 支付6.34亿美元。苹果方面表示不同意判决结果，并将提出上诉。

此次判决是双方多线专利纠纷中的一部分。Masimo指控苹果挖走其员工并盗用其脉搏血氧检测技术，将其应用于Apple Watch。相关争端曾促使美国国际贸易委员会（ITC）在2023年认定苹

果侵权，并禁止进口 Apple Watch Series 9 和 Ultra 2。当时为避免进口禁令，苹果一度从产品中移除血氧检测功能，并在今年8月重新推出经美国海关与边境保护局批准的更新版本。ITC于近期另行决定，将启动新的程序，以判定苹果更新后的手表是否仍应受到进口禁令约束。Masimo 针对海关批准决定的诉讼仍在进行中，同时苹果也在联邦上诉法院对进口禁令提起了挑战。

来源：路透社

## Apple Watch Found Liable for Patent Infringement, Apple Ordered to Pay Masimo Approximately US\$634 million in Damages

A federal jury in California has recently ruled that Apple Watch infringes Masimo's patents concerning blood oxygen monitoring technology, primarily involving its exercise mode and heart rate notification features. Consequently, Apple must pay medical monitoring technology firm Masimo \$634 million. Apple has stated its disagreement with the verdict and will appeal the decision.

This judgement forms part of a broader series of patent disputes between the two companies. Masimo alleges Apple poached its employees and misappropriated its pulse oximetry technology for use in the Apple Watch. The dispute prompted the US International Trade Commission (ITC) to rule in 2023 that Apple infringed patents, banning imports of the Apple Watch Series 9 and Ultra 2. To circumvent the import ban, Apple temporarily removed blood oxygen monitoring from its products before reintroducing an updated version approved by US Customs and Border Protection this August. The ITC has now separately decided to initiate new proceedings to determine whether Apple's updated watches should remain subject to the import ban. Masimo's lawsuit challenging the customs approval decision is ongoing, while Apple has also appealed the import ban to the federal appeals court.

Source: Reuters

## 杜比获得欧洲首个SEP临时禁令

近期，杜比在与Roku的诉讼中成功获得了欧洲首个标准必要专利（SEP）临时禁令，这不仅是德国历史上首次基于SEP的临时禁令，也是整个欧洲司法体系中的首例，标志着欧洲法院在SEP司法强度上的重大突破，或将促使其他司法辖区重新审视此类禁令救济在SEP案件中的适用条件与可行性。

杜比于今年6月27日向慕尼黑第一地区法院提出针对Roku的临时禁令申请，案号为21 O 8296/25。涉案专利为EP 2777270，名称为“用于图像编码和解码的程序、编码与解码装置及相应的计算机程序”。

截至目前，全球仅有巴西和哥伦比亚两个司法辖区曾对SEP签发过临时禁令，分别为：IP Bridge在巴西对比亚迪成功申请临时禁令，以及爱立信在哥伦比亚获得针对苹果的临时禁令。而在美国，权利人通常难以成功获得专利临时禁令。相比之下，欧洲法院在专利案件中颁发临时禁令并不罕见，如德国法院历来以其对权利人友好以及快速的禁令发放著称，UPC的禁令体系也备受权利人青睐。但长期以来普遍认为，FRAND原则相关的问题会使法院在涉及SEP的情形下更为谨慎和保守，从而倾向于不授予此类禁令救济。

来源: IP Fray

## **Dolby Secures Europe's First Preliminary Injunction Against SEP Infringement**

Recently, Dolby secured Europe's first preliminary injunction concerning a standard-essential patent (SEP) in its litigation against Roku. This marks not only Germany's inaugural SEP-based preliminary injunction but also the first such judgement within the entire European judicial system. It signifies a significant breakthrough in the European courts' judicial approach to SEPs and may prompt other jurisdictions to reassess the applicability and feasibility of such injunctive relief in SEP cases.

On 27 June this year, Dolby filed an application for a preliminary injunction against Roku with the Munich Regional Court I, under case number 21 O 8296/25. The patent in question is EP 2777270, entitled 'Programmes, encoding and decoding apparatus and corresponding computer programmes for image encoding and decoding'.

To date, only two jurisdictions globally have granted preliminary injunctions against SEPs: IP Bridge secured a preliminary injunction against BYD in Brazil, and Ericsson obtained one against Apple in Colombia. In the United States, rights holders typically face significant difficulty in obtaining preliminary patent injunctions. By contrast, interim injunctions in patent cases are not uncommon in European courts. German courts, for instance, have long been known for their rights holder-friendly stance and swift issuance of injunctions, while the Unified Patent Court's (UPC) injunction system is also favoured by rights holders. However, it has long been widely held that issues related to the FRAND principle tend to make courts more cautious and conservative in SEP-related cases, leading them to be less inclined to grant such injunctive relief.

Source: IP Fray

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